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SENATE BILL 2758 By  
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HOUSE BILL 2728  
By Caldwell

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 14, Part 1; Section 68-11-1004; Section 68-11-1001 and Section 71-6-117, relative to elderly persons or disabled adults and to create the offense of exploitation of an elderly or disabled person.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 14, Part 1, is amended by adding the following new section:

39-14-151.

(a) For purposes of this section,

(1) "Disabled adult" means any person who is eighteen (18) years of age or older and who meets one (1) of the following:

(A) Has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment;

(B) Lacks the capacity to consent;

(C) Has been certified as permanently and totally disabled by an agency of this state or the United States that has the function of so classifying persons; or

(D) Has been found to be incompetent by a court of proper jurisdiction.

(2) "Elderly person" means any person who is sixty (60) years of age or older.

(b) A person commits the offense of exploitation of an elderly person or disabled adult if such person:

(1) Stands in a position of trust and confidence with the elderly person or disabled adult, or has a business relationship with the elderly person or disabled adult and knowingly, by deception or intimidation, obtains or uses, or attempts or endeavors to obtain or use, an elderly person or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult; or

(2) Knows or reasonably should know that the elderly person or disabled adult lacks the capacity to consent and obtains or uses, attempts or endeavors to obtain or use, or conspires with another to obtain an elderly person or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult.

(c) Exploitation of an elderly person or disabled adult is punishable as theft pursuant to Section 39-14-105, but in no event shall exploitation of an elderly person or disabled adult be less than a Class E felony.

(d) It is not a defense to a prosecution for a violation of this section that the accused did not know the age of the victim.

(e) In a criminal prosecution in which an elderly person or disabled adult is a victim of exploitation as prohibited by this section, the state may move the court to advance the trial on the docket. The presiding judge, after consideration of the age and health of the victim, may advance the trial on the docket. The motion may be filed and served with the indictment or charges or at any time thereafter.

(f) This act is not intended to impose criminal liability on a person who makes a good faith effort to assist an elderly person or disabled adult in the management of the funds, assets, or property of the elderly person or disabled adult, which effort fails through no fault of the person.

SECTION 2. Tennessee Code Annotated, Section 71-6-117, is amended by inserting after the language "Class A misdemeanor" and before the punctuation symbol "." the language "; provided, that if any such person's conduct punishable under this section also constitutes an offense under Section 39-14-151, such person shall be subject to not less than the punishment provided in Section 39-14-151".

SECTION 3. Tennessee Code Annotated, Section 68-11-1001(a), is amended by inserting after the language "vulnerable individuals" and before the punctuation symbol "." the language ", or to have committed an offense under Section 39-14-151".

SECTION 4. Tennessee Code Annotated, Section 68-11-1004(b), is amended by deleting the language "an individual has been convicted of any crime," and inserting instead the language "an individual has been convicted of a violation of Section 39-14-151, or any other crime,".

SECTION 5. This act shall take effect on July 1, 2000, the public welfare requiring it.